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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,437	11/20/2006	Kazuaki Takamori	38131	6905

116 7590 01/29/2008  
PEARNE & GORDON LLP  
1801 EAST 9TH STREET  
SUITE 1200  
CLEVELAND, OH 44114-3108

EXAMINER
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HEIBER, SHANTELL LAKETA

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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01/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/531,437	TAKAMORI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shantell Heiber	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date : 4/14/05, 4/18/06, 5/22/06 and 9/19/06.

## DETAILED ACTION

### *Double Patenting*

1. Claims 1-8 of this application conflict with claims 1-5 of Application No. 11/273,847. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.
2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-8 objected to under 37 CFR 1.75 as being a substantial duplicate of claims 1-5 of Application No. 11/273,847. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-~~8~~ are rejected under 35 U.S.C. 102(b) as being anticipated by Shibata et al. (Shibata), U.S. Publication No. 2001/0004269.

6. **Regarding Claim 1**, Shibata discloses a portable type electronic apparatus, comprising: a first casing having a display portion; a second casing having an operating portion; and a hinge portion rotatably coupling the first casing to the second casing, wherein the hinge portion includes a rotation preventing unit which has a first rotating axis to be an axis in a rotation from a state that the first casing and the second casing are opened to a state that the first casing and the second casing are closed so as to be opposed to each other, and a second rotating axis to be an axis in a rotation of either the first casing or the second casing in an orthogonal direction to a rotating direction of the first rotating axis in a state that the first casing and the second casing are opened within a predetermined angle range around the first rotating axis; and wherein the rotation preventing unit prevents a rotation of the first casing or the second casing around the second rotating axis in a state that the first casing and the second casing are opened beyond the predetermined angle range. [0202]-[0205]; [0233]; [0235] and [0242]-[0246]

7. **Regarding Claim 2**, Shibata discloses, wherein an antenna is protrudingly provided in a vicinity of the hinge portion. **Figure 3**

8. **Regarding Claim 3**, Shibata discloses, further comprising a call unit for performing a call function through a radio communication line, wherein a receiver for outputting and receiving a call voice from the call unit is provided in the first casing; wherein a microphone for inputting and transmitting the call voice to the call unit is provided in the second casing or the first casing; and wherein the call unit performs the function when the first casing and the second casing are opened so that both the receiver and the microphone face in substantially identical directions. **[0209] and [0215]**

**Regarding Claim 4**, Shibata discloses wherein a first image pickup portion accommodating a first image pickup element is provided on a display surface side of a display portion of the first casing; and wherein the display portion has a function of displaying an image picked up by the first image pickup portion. **[0209]; [0217]; [0219]; [0226] and [0230]**

**Regarding Claim 5**, Shibata discloses wherein a second image pickup portion accommodating a second image pickup element is provided in the first casing so as to face in an opposite direction to the first image pickup portion; and wherein the display portion has a function of displaying images picked up by the first image pickup portion and the second image pickup portion. **[0209]; [0217] and [0219]**

**Regarding Claim 6**, Shibata discloses wherein a second image pickup portion accommodating a second image pickup element is provided in the hinge portion so as

to face in a direction to the first rotating axis; and wherein the display portion has a function of displaying images picked up by the first image pickup portion and the second image pickup portion. [0209]; [0217] and [0219]

**Regarding Claim 7**, Shibata discloses wherein the first casing has a connector for connecting an external unit; and wherein an image pickup unit accommodating an image pickup element is connectable to the connector in a state that the image pickup unit is protruded from the first casing. [0209]; [0217]; [0219] and **Figures 1-3**

**Regarding Claim 8**, Shibata discloses wherein the first casing has a connector for connecting an external unit; and wherein a light emitting unit accommodating a light emitting element is connectable to the connector in a state that the light emitting unit is protruded from the first casing. [0209]; [0217]; [0219] and **Figures 1-3**

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shantell Heiber whose telephone number is 571-272-0886. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SLH  
January 22, 2008



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SUPERVISORY PRIMARY EXAMINER